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Letter dated 24 May 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Cuba to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the "Summary of main points concerning the presence of the terrorist Luis Posada Carriles in the territory of the United States of America" (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly under agenda item 148, "Measures to eliminate international terrorism", and of the Security Council.

(*Signed*) Rodney **López Clemente**
Ambassador
Chargé d'affaires a.i.

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Annex to the letter dated 24 May 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Cuba to the United Nations addressed to the Secretary-General

Summary of main points concerning the presence of terrorist Luis Posada Carriles in the United States of America

Update as at 13 May 2005

On 11 April 2005 the Government of the Republic of Cuba condemned the possible presence of terrorist Luis Posada Carriles in the United States. That information has subsequently been confirmed.

Posada Carriles is a dangerous international terrorist who is subject to judicial proceedings in the Bolivarian Republic of Venezuela, along with Orlando Bosch Ávila, also a terrorist, now residing in the United States, for sabotaging a Cuban airliner off the coast of Barbados in 1976, an act that cost the lives of 73 innocent persons.

Posada Carriles, who has a long record of criminal actions against Cuba and other nations, led terrorist organizations in the 1960s, 1970s and 1980s that, under the direction of the intelligence agencies of the United States Government, carried out multiple actions against Cuba and against other countries which maintained relations with the island.

Luis Posada Carriles was also known as a torturer in the Venezuelan Directorate-General of Intelligence and Protection Services (DISIP) during the 1970s, when he held senior posts in that repressive body.

More recently, in 1997, Posada Carriles led, from his base in El Salvador, a network of terrorists who placed explosive devices in Cuban hotels and tourist sites that caused material and human losses, including the death of the Italian tourist Fabio di Celmo. In an interview he gave to the *New York Times*, published on 12 and 13 July 1998, Posada admitted having led that terrorist network.

In 1985 Posada escaped from a Venezuelan prison while he was on trial for sabotaging the Cuban airliner. He is therefore a fugitive from justice in the Bolivarian Republic of Venezuela.

He reappeared in El Salvador in 1985 at the notorious Ilopango airbase, working with the also notorious Lieutenant Colonel Oliver North, who, on orders from the President of the United States, was supplying arms to the Nicaraguan "contras" as part of the dirty war being waged against the Sandinista Government from that Central American country.

In November 2000, Luis Posada Carriles, along with three accomplices, was detained in Panama as he was planning an attack against the President of the Republic of Cuba, who was attending the Tenth Ibero-American Summit that was being held in Panama. Posada and his accomplices planned to place a potent C-4 explosive charge in the auditorium of the University of Panama at a time when President Fidel Castro would be meeting with hundreds of Panamanian students and professors. The explosive materials that were to be used in the attack were seized by the authorities of the Republic of Panama.

The Government of President Mireya Moscoso, using trumped-up arguments and lies, rejected the extradition request which Cuba had submitted for the crimes committed by Posada Carriles and his accomplices against the Cuban people prior to the incidents in Panama. The request was based on a voluminous extradition file of over 2,000 pages, submitted in a timely manner and in accordance with all the rules governing such procedures in the Panamanian Judicial Code.

While in jail, Posada Carriles continued to lead his terrorist network and to lay the groundwork for an escape similar to the one he had carried out in the Bolivarian Republic of Venezuela years earlier. At that time he was receiving support from representatives of the terrorist Cuban American National Foundation, based in Miami, a front for the United States Central Intelligence Agency (CIA) created by the administration of President Ronald Reagan to carry out actions against Cuba.

During 2001 and 2002, he received numerous visits from Santiago Álvarez Fernández Magriña, who was tasked by terrorist groups in Miami with funding his defence and finalizing the escape plans, which he coordinated with Nelsy Ignacio Castro Matos in Central America.

The visits by those individuals to Panama ended in 2002 when the Government of Cuba requested the Panamanian authorities to detain the two provisionally for the purposes of extradition, in view of their participation in terrorist acts against Cuba, including recent infiltrations into Cuba for the purposes of sabotage that were thwarted by the Cuban State security forces. However, their efforts to free Posada Carriles and his accomplices did not end.

As reported by the Panamanian newspaper *La Estrella de Panamá*, then United States Secretary of State Colin Powell and Otto Reich, director of Western hemisphere affairs at the National Security Council in the administration of President George W. Bush, asked President Mireya Moscoso to free the terrorists during their visits to Panama.

The former United States ambassador to Panama, Simón Ferro, who has long-standing ties to the Cuban American National Foundation, was tasked with coordinating the release of these individuals with the Panamanian Government, as demonstrated by the telephone call which former President Moscoso made to Ferro immediately following her granting of a pardon to the four defendants in Panama. During that call, as widely reported by the Panamanian press, she informed him that she had complied with the request.

Luis Posada Carriles was sentenced to eight years in prison by a Panamanian court at a trial in which the charges of unlawful association for criminal purposes and possession of explosives were inexplicably omitted. Those charges were fully proven during the trial and would have significantly increased his sentence in Panama. The sentence was appealed by lawyers for the plaintiff organizations, which represented Panamanian labour, student and indigenous associations whose members would have died had the attack been carried out, and by the lawyer for the terrorist.

He remained in prison until August 2004, when he was fraudulently pardoned by then President Mireya Moscoso, even though the judicial process had not been completed, and despite the repeated warnings by the Government of Cuba as to the consequences that would follow from a pardon or if he were allowed to escape. Pardoned along with Posada Carriles were his three accomplices detained in

Panama, Gaspar Eugenio Jiménez Escobedo, Guillermo Novo Sampoll and Pedro Remón Rodríguez.

His move from Panama to Honduras was carefully planned in Miami. Two aircraft were used. One of them would fly Gaspar Jiménez Escobedo, Guillermo Novo Sampoll and Pedro Remón to Miami, where they were publicly welcomed as heroes by their comrades in the terrorist organizations based in that city, where they now move about with impunity. The second aircraft, in which the terrorist Santiago Álvarez Fernández Magriña was travelling, headed for San Pedro Sula, Honduras, with Luis Posada Carriles on board.

He entered Honduras with a United States passport in the name of Melvin Cloide Thompson, and was welcomed and protected by Rafael Hernández Nodarse, head of the terrorist structure established in that Central American country. These facts were extensively reported by the Honduran press.

Since then, and until his recent entry into the United States, Posada Carriles has been travelling around Central America with a false passport.

On 14 March 2002, the Mexican newspaper *Que Quintana Roo Se Entere* reported that the shrimp vessel *Santrina*, registered in the United States, had run aground on the El Farito reefs facing Islas Mujeres with five crew members on board. Among them was the captain, José Pujol, a long-time CIA agent known as "Pepín", who, after the vessel had moved off the reef, refused to give information to the media about the reasons for his strange presence in that port.

Also crewing the *Santrina* was Santiago Álvarez Fernández Magriña, the same terrorist who supported Posada Carriles on instructions from the Cuban American National Foundation while he was in prison in Panama, and who was aboard the aircraft that took Posada from Panama to Honduras. The newspaper also reported that the *Santrina* had been thoroughly inspected by the Mexican authorities.

Also on board, in addition to the two individuals mentioned, was Rubén Darío López Castro, long known as a member of the terrorist organizations Alpha 66 and National Democratic Unity Party (PUND), who, among other misdeeds, participated in the murder of the Cuban fisherman Luis Tormo Mirabal on 4 October 1973. He was detained by the Bahamian authorities in 1992 while planning terrorist actions against Cuba. He participated in the 1995 attack against the Guitart Cayo Coco Hotel in Cuba and in planning an attack against the President of Cuba in the Dominican Republic, and was a member of the team which, together with Posada Carriles, Jiménez Escobedo, Novo Sampoll and Remón, organized the attempted assault against the commander in chief, Fidel Castro Ruz, in Panama in 2000.

Two days later, another Quintana Roo newspaper, *Por Esto*, reported that the aforesaid vessel had been given a routine inspection by, inter alia, the migration authorities, Sanidad Internacional and the port authority, who found no irregularities. The newspaper added that the crew members' passports were in order. It also stated that the vessel had left the Bahamas and was heading for Miami. It further reported that upon returning to Miami, the vessel would, according to its captain, be converted into a school for diving and underwater exploration.

It should be noted that, while the *Santrina* is registered in the name of an alleged marine ecology foundation called the "Caribbean Dive and Research Foundation", its owner is none other than the aforesaid Santiago Álvarez Fernández

Magriña. On 21 April 2004, the Social and Environmental Network of Quintana Roo, an organization representing institutions engaged in ecological research and preservation in that Mexican state, told the newspaper *Por Esto* that the alleged "ecological protection foundation" which had served as a cover for the operation was unknown to it. The Network added that it maintained contact with its counterparts in many countries, including the United States, and that it was the first time it had ever heard of the so-called "foundation". On 4 May, in the light of his reiterated appeals to the United States authorities to locate the *Santrina* in the port of Miami, and his warnings that the vessel could "disappear" or be hidden to conceal the movement of Posada Carriles, President Fidel Castro Ruz denounced the reports in the Miami press that the *Santrina* had already been transformed and converted into a kind of "academy" in order to lend credence to the story that had been concocted by its crew in Islas Mujeres.

Furthermore, the Quintana Roo newspaper *Por Esto* reported on 26 April that observers aboard a motorboat in the vicinity of the shrimp vessel *Santrina* while it was refuelling had clearly seen six persons hiding on it, whereas the vessel's exit declaration for Miami reported only five. The report added that when the *Santrina*'s crew members realized they were being observed, one of the persons who had been hiding ran inside the vessel.

It should also be noted that the route from the Bahamas to Miami is not exactly Mexican territory, so that it was obvious from the beginning that there had to be other reasons for stopping at a port in the state of Quintana Roo.

Days later, on 31 March, the newspaper *El Nuevo Herald*, known for its anti-Cuban stance and its ties to terrorist elements of Cuban origin in Miami, reported that Luis Posada Carriles was in that city, which he had entered by a sea route, and that it was considered feasible that the United States Government would grant him residence in view of the services he had provided to that country's armed forces. It should be noted that the date of the terrorist Posada's reported arrival in the United States coincides with the date on which the *Santrina* was reported to have docked in Miami.

The newspaper itself acknowledged, however, that Posada's past, being linked to terrorism, could create a dilemma for the United States authorities, and it quoted Santiago Álvarez Fernández Magriña as saying that he would support Posada Carriles by providing him with any legal representation he might need.

According to press reports, on 13 April, two days after the Cuban criticism had begun, the lawyer for the terrorist announced in Miami that he had requested political asylum in the United States for his client, since he "has promoted the interests of the United States for approximately four decades". As reported, Eduardo Soto, the lawyer for Posada Carriles, added that he "has been registered as an official member of the CIA since the early 1960s" and "is also a member of the United States army".

Soto declined to reveal Posada's whereabouts, but said that he might have his first interview with the Miami immigration authorities at the end of that week or the beginning of the following one.

On 5 May, Attorney Eduardo Soto again reiterated that his client, terrorist Luis Posada Carriles, would appear before the United States immigration authorities when requested to do so, in accordance with the asylum petition he had filed.

Since 11 April, in statements delivered by President Fidel Castro Ruz, the Government of Cuba has condemned the presence of terrorist Luis Posada Carriles in the United States and has shown convincing proof that he is in the United States despite the authorities' public and private refusals to acknowledge his presence.

In that connection, the Cuban President has recalled that on 26 August 2003, President George W. Bush said, "if you harbour a terrorist, if you feed a terrorist, you're just as guilty as the terrorist". And the Cuban President has stated that the protection which Washington was providing to Luis Posada Carriles by not recognizing his presence in the United States "was an insult to the United States citizens who died in the Twin Towers".

The President of the Republic of Cuba has repeatedly called upon the United States Government, and particularly on President George W. Bush, to say whether he does or does not know that terrorist Luis Posada Carriles has been in the United States for over a month and a half, having also ensured that Luis Posada Carriles moved to the United States from Quintana Roo aboard the vessel *Santrina*, which made such a suspicious stop at Islas Mujeres.

The Cuban President also informed the international media that persons who saw Posada Carriles walking through the streets of Islas Mujeres, after entering Mexican territory via Chetumal, have already come forward.

The President of the Republic of Cuba has made it clear that the admission of terrorist Luis Posada Carriles into the United States would constitute not only a violation of United States anti-terrorism legislation, but also of resolution 1373 (2001), adopted by the United Nations Security Council on 28 September 2001 under Chapter VII of the Charter of the United Nations, following the 11 September 2001 attacks in New York and Washington.

At the same time, the Cuban President has recommended urgently to the United States Government that it proceed, with the vast resources of its intelligence and security agencies, to search for the *Santrina* and those who, like the terrorist Santiago Álvarez Fernández Magriña, know the whereabouts of Posada Carriles. It has also alerted the Government in Washington to the possibility that, following the Cuban condemnation, the terrorist may now be "disappeared" or assassinated.

The President of the Republic of Cuba also reported that on the evening of 20 April 2005, on a programme broadcast by TV channel 41 in Miami, Santiago Álvarez Fernández Magriña acknowledged his participation in terrorist acts against Cuba. On that programme, Fernández Magriña also acknowledged, unequivocally and categorically, that Posada Carriles is specifically in Miami, Florida, and that he, Álvarez Magriña, is in constant contact with Posada.

On 22 April Commander-in-Chief Fidel Castro Ruz recalled the penalties incurred under United States law by anyone who illegally smuggles into the United States a person lacking a valid United States passport or visa, or who smuggles an undocumented person into the United States, or moves him within the United States, or conceals his presence in the United States, or enables him to live clandestinely in the country. Such penalties are far more severe if the person involved is a criminal or a terrorist, as is the case with Posada Carriles. Under the laws of the United States, merely for helping a terrorist to enter the United States illegally, moving him within the country, concealing his presence and providing him with means of subsistence in Miami, each of the accomplices could be sentenced to 35 years in

prison and the payment of hundreds of thousands of dollars in fines. Moreover, United States law also provides that any vessel used to smuggle human contraband into the country — in this case, the shrimp vessel *Santrina* — shall be impounded.

In this context, the President of the Republic of Cuba has made it clear that the impunity of terrorist Luis Posada Carriles and those like Santiago Álvarez, who brought him into the United States and are now protecting him, is obviously a form of blackmail against the United States Government, for which they always worked. Everything seems to indicate that Washington fears the revelations that might be made by these terrorists concerning the involvement of the United States Government in terrorist acts over the decades, especially against Cuba.

The Government of the Republic of Cuba has also called upon the authorities of Costa Rica and Guatemala to investigate the movement of terrorist Posada Carriles through their territories, and on the Government of Mexico to investigate the terrorist's presence in a Mexican state.

The Cuban President also reported that the Mexican Congress has adopted a resolution calling upon the Government, in particular, the Ministry of the Interior and the Office of the Attorney-General, to investigate how Posada Carriles entered Mexico. The Mexican Congress also expressed concern at the support provided for that operation by the terrorist Cuban American National Foundation based in Miami. President Fidel Castro urged President Vicente Fox to ask the United States Head of State, George W. Bush, what he knows about the case of terrorist Luis Posada Carriles.

The Government of the Bolivarian Republic of Venezuela has announced that it will seek the extradition of terrorist Luis Posada Carriles, an action supported by the Government of the Republic of Cuba. President Fidel Castro Ruz has said that Cuba is willing to have this dangerous international terrorist tried by a Venezuelan court or by an international court.

On 3 May the Supreme Court of Justice of the Bolivarian Republic of Venezuela ruled that the extradition request for Posada Carriles submitted by the Public Prosecutor's Office was valid; the request is still being processed by the Venezuelan Ministry of Foreign Affairs. The extradition request was fully supported by the National Assembly of the Bolivarian Republic of Venezuela.

The Cuban President also warned of the manoeuvre, already announced, whereby the Government of El Salvador would request the extradition of terrorist Luis Posada Carriles for a lesser crime, punishable only by a fine, in yet another attempt to help the terrorist escape justice, a move already criticized by Salvadoran political organizations and parties, despite recent statements by President Saca that El Salvador would not grant asylum to Posada.

With regard to the legality of granting political asylum to Posada Carriles in the United States, the Cuban President cited the opinion of José Pertierra, a well-know attorney of Cuban origin based in Washington and an expert on immigration issues, that was published in the online periodical *Rebelión*. In that article, the Cuban-American legal expert analysed United States law and concluded that Posada Carriles was not eligible for asylum in the United States or for residence in the United States or for parole, and therefore was not eligible for benefits under the Cuban Adjustment Act.

In other words, Attorney Pertierra made it clear through solid legal arguments that United States legislation does not offer even the smallest pretext for the United States Government to grant asylum to Posada Carriles or to authorize him to reside permanently in the United States, and that the only option open to Washington is to detain the terrorist and proceed to deport him.

After more than a month and a half had passed with no response to the subpoenas sent by the Cuban President, on 4 May Roger Noriega, Assistant Secretary of State for Western Hemisphere Affairs, stated that his Government did not even know whether Luis Posada Carriles was in the United States and had no information as to his whereabouts. Mr. Noriega also said that the United States Government had no interest in granting asylum to someone who was guilty of criminal acts, and that the case would be dealt with in a "private, serious and transparent way".

With regard to these statements by Mr. Noriega, the President of the Republic of Cuba publicly read out articles that had appeared in the Miami press questioning why the United States Government would want to deal "privately" with the case of a criminal acknowledged as such by the United States official himself. These newspapers doubted that it would be possible to deal with the case in a way that was both "private" and "transparent", and asked whether Washington would take action against other terrorists living in Miami and against the accomplices of Posada Carriles, since he was not the only one implicated in the terrorist acts attributed to him.

The attorneys for the terrorist, a team reinforced with lawyers of the stamp of Kendall Coffey, the former Miami district attorney, who led the team that tried to keep young Elían González in the United States, and Joaquín Chafardet, who represented Posada Carriles in Caracas when he was tried for blowing up a Cuban airliner in 1976, have stated that the request for asylum would proceed normally, regardless of the statements by Assistant Secretary Noriega.

President Fidel Castro, in all his appearances, has emphasized that it is impossible for the United States Government to be ignorant of the whereabouts of Luis Posada Carriles, when, for one thing, the application forms for asylum in the United States require an address where the applicant can be reached. Moreover, Posada's accomplices, Santiago Álvarez Fernández Magriña, for one, have clearly stated that they know where he is, so that all that is required is to question and investigate them.

As the Cuban President made public at the time, *The Miami Herald*, a daily newspaper, reported on 26 April that a Federal Bureau of Investigation (FBI) spokesperson had stated that the Bureau, an organ of the United States Department of Justice, did not have jurisdiction in the case of terrorist Posada Carriles, since there was no warrant out for his arrest. The article raised the question of how the Italian people, the Italian Government and the Italian media would react to a decision that would allow Luis Posada Carriles to stay freely in the United States, considering that an Italian citizen, Fabio di Celmo, had been one of those killed as a result of Posada's terrorist acts.

It is obvious that the United States Government has been put in an embarrassing situation as a result of its own lies and inconsistencies. Even the well-known and prestigious magazine *Newsweek* reported in its issue of 3 May that the

question of terrorist Luis Posada Carriles was so sensitive that it had been brought to the attention of the Secretary of Homeland Security, the National Security Council and the White House, which was having a difficult time justifying its actions in the case in the light of its declared "war on terrorism".

The case has already elicited reactions in the United States Congress. On 1 May, the President of the Republic of Cuba informed the Cuban people that Republican Senator Norman Coleman, in a recent letter, confirmed that the Department of Homeland Security had received an asylum request from Posada Carriles and had explained that "because of his past acts of terrorism that that he has, by his own admission, claimed to have planned and carried out, Mr. Carriles is not eligible for asylum".

On 6 May President Fidel Castro Ruz referred to a letter sent to the Department of Homeland Security by Representative William Delahunt, member of the House Subcommittee on the Western Hemisphere, and provided to *Newsweek* magazine, in which he criticized the lack of action of the United States authorities, which he termed "hypocrisy", in view of the evidence linking Posada Carriles to terrorism. Congressman Delahunt urged the FBI to investigate.

President Fidel Castro, in a speech given before more than 1,300,000 Cubans on 1 May, recognized the importance of investigations by the United States press, given the failure of the country's authorities to act.

Legal manoeuvres of various kinds are under way in the United States in an effort to allow Posada Carriles to remain free and safe from prosecution in that country.

It has been argued, for example, that if he could not remain in the United States he would be taken to Cuba and condemned to death. The Cuban President has said repeatedly that there is not the slightest possibility that Posada will be tried in Cuba, and he made that known from the start in order not to give any pretext for not extraditing him to be tried in the Bolivarian Republic of Venezuela, where, moreover, the law does not provide for capital punishment.

Attorneys for the terrorist argue that under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, no one may be extradited to a country where he or she may be tortured, and they are preparing to launch a campaign around the possibility that Posada Carriles might be tortured in the Bolivarian Republic of Venezuela and then to raise that argument before the courts in Miami.

What they omitted to say is that it is not fitting for a torturer like Posada Carriles to be seeking the protection of the Convention against Torture.

To mention only one example, Jesús Moreno, a Venezuelan citizen, recently declared on the Venezuelan television programme "En Confianza" that he was tortured in 1973 on the orders of Posada Carriles when the latter was a member of the Venezuelan intelligence service, DISIP.

During the two months he was detained, Moreno was subjected to abuse and torture by thugs under the direction of Posada Carriles. Moreno also maintains that a high-ranking DISIP official aided and abetted Posada's escape from the Venezuelan prison.

Cuba has requested that the court that tries Posada Carriles should also try Orlando Bosch, another known terrorist, who now walks openly about the streets of Miami.

President Fidel Castro has publicly presented plentiful evidence of the links between Posada Carriles and Orlando Bosch, with revealing details about their criminal activities conducted under the protection of the United States authorities, who cannot bring themselves to act in order to put a stop to the impunity that such repugnant individuals enjoy in that country.

President Fidel Castro has reported that, during a trip to Chile, Bosch and the terrorist organization Command of United Revolutionary Organization (CORU) agreed to eliminate prominent Chileans living in exile on orders from the military junta headed by Pinochet. During the period from January 1974 to November 1975, General Carlos Prats and his wife were assassinated in Argentina; Bernardo Leighton, Vice-President of the Chilean Christian Democratic Party, was attacked in Rome; and 14 terrorist attacks were made on Cuban diplomatic missions in a number of countries.

Despite his criminal record, Bosch was freed in February 1988 by the Venezuelan authorities at that time; he then moved to Miami, received a presidential pardon from the first President Bush and continues to boast of his lengthy terrorist record, without showing the least sign of repentance.

Any decent person would feel repugnance on hearing the shameless statements made publicly by Orlando Bosch in interviews with the press in the Bolivarian Republic of Venezuela and the United States (most recently a few days ago), in which he justifies terrorism against innocent persons and shows not the least remorse for his vicious acts. On the contrary, he boasts of his murderous attacks.

When Orlando Bosch was pardoned by President George Bush senior, the United States Government was aware of all his misdeeds, in part because the first President Bush had been the Director of the CIA during the era of its contacts with Posada Carriles and Bosch.

Orlando Bosch was even among the guests invited by President George W. Bush to a celebration on 20 May 2002 in Miami, which shows what close ties exist between the White House and individuals of this kind.

Highly revealing documents which have had global repercussions were published on 10 May 2005 on the website of the National Security Archive at George Washington University (http://www.gwu.edu/~nsarchiv/).

The documents in question are 14 declassified CIA and FBI documents that convincingly show that Posada Carriles was recruited by and worked for the CIA and was responsible, together with Orlando Bosch, for blowing up the Cubana airliner in 1976. They also show that another terrorist allowed into the country without questioning by the United States Government, Guillermo Novo Sampoll, was directly involved in the assassination of former Chilean Foreign Minister Orlando Letelier. The documents make it clear that the United States Government was always well informed about the terrorist acts committed by these individuals.

The documents bring to light Posada's long-standing ties with the CIA since the days of the Playa Girón invasion (he was in one of the ships but did not land). While serving in the United States military from 1963 to 1965, he was trained in

demolition using explosives. Apparently the CIA terminated him in July 1967 but reinstated him four months later and retained him until 1974. However, the Agency's own documents confirm that he remained in regular contact — significantly, as it happens — up to the founding of the terrorist organization CORU in June 1976, three months before the sabotage of the Cuban airliner, and reveal Posada's active participation, after he escaped from jail in Caracas, in operations to supply weapons to the Nicaraguan contras from a base at Ilopango in El Salvador, under the orders of Lt. Col. Oliver North, a high-ranking official in the Reagan Administration and on the payroll of the White House and the Department of State.

The documents show that on the day after the downing of the airliner, the FBI had already firmly identified Bosch and Posada Carriles as responsible for planning the bombing. That shows that the United States Government did know from the start that the two terrorists were involved in blowing up the Cuban airliner, and instead of responding to the call of the Trinidadian and Venezuelan authorities for help in the investigation, it kept quiet and concealed the evidence.

The declassified documents also reveal the close connection that has long existed between Posada Carriles and the Cuban American National Foundation (CANF), especially its former leader, Jorge Mas Canosa, and their financing of his terrorist activities.

The Foundation has been the sponsor of many sabotage operations and attacks against the Cuban people. CANF was the main source of financing for the bombing of hotels and other tourist sites in Havana in 1997.

An FBI document dated as early as 7 July 1965 contains information on a payment made by Jorge Mas Canosa, then head of the terrorist organization Cuban Representation in Exile (RECE), to Posada so that he might sabotage ships anchored in Mexican ports.

The President of the Republic of Cuba has issued stern warnings about the legal responsibility that the President of the United States could incur, since the latter, by the powers vested in him, is obliged to act in cases like these and to keep the American people informed.

Cuba would take it very seriously if the United States Government were to permit Luis Posada Carriles to remain in the United States with impunity, grant him asylum or allow him, through legal manoeuvres, to move freely about the country. Such actions would be in contradiction to the "war on terrorism" that the United States Government has declared and the military actions it has undertaken in Iraq and Afghanistan, which have cost hundreds of thousands of lives, in the name of such a war.

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Maintenance of international security — good-neighbourliness, stability and development in South-Eastern Europe

Security Council
Sixtieth year

Letter dated 23 May 2005 from the Permanent Representatives of Greece and Romania to the United Nations addressed to the Secretary-General

We have the honour to transmit herewith the Bucharest Declaration adopted at the eighth meeting of the Heads of State and Government of the States participating in the South-East European Cooperation Process (SEECP) (see annex).

The Summit was held in Bucharest on 11 May 2005. On that occasion, Greece took over from Romania the Chairmanship-in-Office of SEECP for the next term.

We should be grateful if the present letter and its enclosure could be distributed as a document of the General Assembly, under agenda item 58, and of the Security Council.

(*Signed*) Adamantios Th. **Vassilakis**
Ambassador
Permanent Representative of Greece to the United Nations

(*Signed*) Mihnea Ioan **Motoc**
Ambassador
Permanent Representative of Romania to the United Nations

05-35752 (E) 260505

Annex to the letter dated 23 May 2005 from the Permanent Representatives of Greece and Romania to the United Nations addressed to the Secretary-General

Bucharest Declaration adopted at the eighth meeting of the Heads of State and Government of the States participating in the South-East European Cooperation Process

The Heads of State and Government of the States participating in the South-East European Cooperation Process (SEECP), namely Mr. Alfred Moisiu, Mr. Borislav Paravac, Mr. Georgi Parvanov, Mr. Stjepan Mesic, Mr. Kostas Karamanlis, Mr. Branko Crvenkovski, Mr. Traian Basescu, Mr. Vojislav Kostunica, and Deputy Prime Minister and Minister of Foreign Affairs Mr. Abdullah Gul, met in Bucharest on 11 May 2005, on the occasion of the Eighth Summit of the SEECP, in order to assess the progress of SEECP during the Romanian Chairmanship (April 2004-May 2005) and envisage new ways of developing cooperation within its framework. President Vladimir Voronin was participating as observer.

Present at the meeting were the following Ministers of Foreign Affairs: Mr. Kastriot Islami, Mr. Mladen Ivanic, Mr. Petros Molyviatis, Mr. Mihai-Razvan Ungureanu, Chairman-in-Office of the SEECP, Mr. Vuk Draskovic. Also participating were Mr. Nikolay Milkov, Deputy Foreign Minister, Mrs. Marija Pejcinovic Buric, State Secretary, Ambassador Volkan Bozkir, Deputy Under-Secretary and Ambassador Mr. Tihomir Ilievski. Mr. Andrei Stratan, Deputy Prime Minister and Minister of Foreign Affairs, participated as observer.

Also participating as special guests were: Mr. Olli Rehn, EU Commissioner for Enlargement, Mr. Jan Kubis, OSCE Secretary General, Mr. Klaus Schumann, Director General, Council of Europe, Mr. Erhard Busek, Special Co-ordinator of the Stability Pact for South-Eastern Europe, Mr. Lawrence Rossin, Deputy Special Representative of the United Nations Secretary-General and Deputy Head of UNMIK, Mr. William Hill, Head of OSCE Mission to Moldova, and Mr. Alexandru Ionas, Acting Director of the SECI Center.

Reaffirming the importance of further improving regional cooperation in order to ensure lasting peace, stability and economic prosperity in the SEECP participating States and for strengthening the political profile of SEECP as "the voice of the region par excellence" and as a driving force to European and Euro-Atlantic integration;

Reaffirming their commitment to act jointly towards achieving the aims and principles embodied in the Bucharest Charter on Good-Neighbourly Relations, Stability, Security and Cooperation in South-Eastern Europe and all relevant SEECP documents;

Sharing the understanding that significant progress in promoting democracy, market economy and a strong civil society in the SEECP participating States has been achieved and remains a prerequisite to enhance cooperation at the regional level;

Recognizing that SEECP participating States face common risks and challenges that require increased cooperation for an adequate response;

The Heads of State and Government of the States participating in the South-East European Cooperation Process:

1. *Express* their deep regrets for the death of Pope John Paul II, who will be remembered for his excellent leadership of the Catholic Church and strengthening peace, freedom, democracy and the respect for human rights.

2. *Welcome* the achievements made during the Romanian Chairmanship-in-Office in enhancing the political profile of the SEECP as the genuine "voice of the region" or partner of dialogue with other regional structures. The meetings at the level of Ministers, Political Directors, as well as other SEECP events organized during this period, have contributed to strengthening the cooperation between the participating States and to enlarging the area of their joint endeavour.

3. *Welcome* the Republic of Croatia's full-fledged participation in the SEECP and the Republic of Moldova's participation in the SEECP activities with observer status. We took note of the recent application of the Republic of Moldova to become a participating state. We have tasked the Committee of Political Directors to review favourably this request in the light of the Bucharest Charter and its Annex and report in time with the aim of adopting a decision in the next SEECP Summit.

4. *Welcome* the progress achieved in the European integration processes of the States in the region, as reflected in the EU Council's decisions during the past months.

5. *Recognize* the significance of the activities developed under the framework of the Adriatic Charter as a valuable instrument designed to support the member States endeavour to join NATO as well as the importance of sustained efforts by the interested participating States towards accession to the Partnership for Peace. We shall continue to support their efforts through the MAP process.

6. In the context of enhanced regional stability as a major precondition for advancement of democratic processes, the participating States *stress* the importance of respect for sovereignty, territorial integrity and inviolability of borders. In addition, we underline the principles of respect for international law and uphold of dialogue as means for peaceful settlement of disputes.

7. *Express* their commitment to consolidate the role of the SEECP as a platform of European and Euro-Atlantic integration for the participating States and, to that end, to join efforts for enhancing cooperation in relevant areas, such as justice and home affairs. In doing so, the SEECP participating States will encourage initiatives originating from the South-Eastern European region.

8. *Emphasize* their commitment to continue to develop the military dimension of the regional cooperation in South-East Europe, by building upon the positive experience resulted from the organization of the Conference on Defence Conversion (Bucharest, March 2005).

9. *Reiterate* their resolve to further cooperate in fighting non-conventional threats to the regional security and stability, such as terrorism, organized crime, corruption, illegal trafficking in all its aspects, and *recognize*, in this respect, the importance of the initiative launched under the Romanian Chairmanship-in-Office, concerning the Joint Campaign against Organized Crime and Corruption. Continued efforts should be made in order to increase the effectiveness of this campaign at full regional scale, including through coordination with national initiatives and programmes, so as to

properly address the challenges facing the SEECP participating States. The work of the Consultation Group on Fighting Organized Crime and Corruption, as part of the mechanism designed to support the implementation of the campaign, has proved useful. *Recognize* the importance of ratifying the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime.

10. *Express* their intention to support increased and more effective cooperation between the Regional Center for Combating Trans-border Crime in Bucharest (the SECI Center) and the European Union's specialized institutions, as a means to sustain the latter's actions against corruption and organized crime. Express their support for the speedy elaboration of the Action Plan, as mentioned in the March 18 Resolution of the Joint Cooperation Committee of the SECI Center, which includes drafting a new legal base for the functioning and future development of the Center.

11. While aiming to achieve European standards, we reaffirmed the importance of modernization of border control and facilitation and harmonization of visa regimes, respecting European Union commitments of the participating States.

12. *Reaffirm* their commitment to strengthen economic cooperation within the South-Eastern European region, through increasing the volume of trade, promoting business partnerships and implementing joint projects with regional impact.

13. *Reiterate* their will to continue the implementation of internal economic reforms so as to ensure the improvement of national and regional business-friendly environment and the development of small and medium-sized enterprises.

While addressing the problem of unemployment and under-employment, a priority remains the adoption of the necessary measures aimed at promoting efficient, job creating entrepreneurship and for increasing employment in the region as highlighted during the Conference on Entrepreneurship and Employment in South-Eastern Europe, organized in May 2004 under the aegis of the Romanian Chairmanship-in-Office.

Reconfirm that there is an urgent need for structural reforms and policies establishing social cohesion both at national and regional levels.

Also *reconfirm* their determination to take the necessary steps for harmonizing the national legislation with the *acquis communautaire* and preparing the economies in order to meet the objectives of the EU newly-proposed "Growth and Jobs" Strategy.

14. *Express* their readiness to sign and ratify as soon as possible the Treaty establishing the Energy Community in South-Eastern Europe, as the fulfilment of the Athens Process.

15. Taking account of the irreversibility of the European integration processes under way for the South-East European countries, the paramount importance of the Thessaloniki Agenda for the Western Balkans, as well as the objective necessity for more efficient links with the European Union being a basic precondition for a lasting stabilization of the region;

Taking account of the forecast expressed by the EU that by 2020, the volume of traffic between the EU and its current neighbours is expected to double;

Considering that the realization of regional infrastructure projects of international interest will contribute to strengthening good-neighbourly relations and communication among the peoples in the region;

Convinced that complete economic growth and prosperity in the region are impossible without comprehensive activity for reconstruction, construction and connection of the regional infrastructure;

Wishing to facilitate the international transportation of passengers, goods and energy resources through the construction of a modern, environmentally friendly, highly efficient regional infrastructure;

Acknowledging regional infrastructure's importance for fostering tourism in South-Eastern Europe and transforming the region into a desired destination for people from all around the world;

Relying on the progress of social and economic reforms, the consolidation of democracy and the state of law achieved by the countries in the region;

Expressing dissatisfaction with the current status of the regional infrastructure and the lack of significant investments in this area;

We highly appreciate the draft *Declaration of the SEECP participating States on the development of the regional infrastructure* submitted by the Republic of Bulgaria and taking note that the next Chairmanship-in-Office will organize a Ministerial Meeting on Trans-European Networks of Transport, Energy and Telecommunications in South-Eastern Europe, we ask the Ministers to work on the proposal, either to be adopted at the mentioned meeting or to be endorsed at the next SEECP Summit.

16. The participants acknowledge the strategic importance of the Danube, a European river, linking countries that share the same interests and goals. They express their commitment to make full use of the potential for economic, environmental, cultural cooperation that the Danube provides to the development of the South-Eastern European region.

17. *Reaffirm* their commitment to explore opportunities for increased regional cooperation in areas such as environment protection, social protection, health, education, tourism and other fields of mutual interest, which became priorities in South-East Europe.

18. *Reaffirm* their readiness to continue cooperation between the SEECP and other regional initiatives, and the Stability Pact for South-Eastern Europe in particular. In this respect the cooperation with the Stability Pact Anti-corruption Initiative and the Stability Pact Initiative for fighting against Organized Crime has proven useful.

Confirm their interest to launch initiatives of cooperation with the Black Sea riparian States, including through the Black Sea Economic Cooperation Organization (BSEC), in various projects of mutual interest.

19. *Welcome* with satisfaction the improvement and positive developments of regional cooperation in the field of migration, asylum and refugees and, in this regard, the signing of the Memorandum of Understanding of the MARRI Regional Forum, and the establishment of the Regional MARRI Center in Skopje, as well as the conclusions of the MARRI Ministerial Conference held in Tirana (5 April 2005).

Consider this development as an important achievement aimed at promoting the concept of SEECP "regional ownership and leadership".

20. *With regard to the situation in Kosovo they express their support* of the full implementation of the standards policy, respect of the Security Council resolution 1244 (1999), and call for a renewed and constructive dialogue between Pristina and Belgrade. The process of standards' evaluation and the commencement of negotiations on the future status of Kosovo as well as the establishment of a democratic and multi-ethnic society are of great significance for the region's overall stability.

21. *Emphasize* the importance to continue to organize regionally a reflection process, also at think-tank level on the developments and perspective of Kosovo.

22. *Welcome* the consolidation of SEECP's parliamentary dimension and praise the results of the Conference of the Chairmen of the Foreign Affairs and European Integration Committees from the national Parliaments of the SEECP Participating States (March 2005) as reflected in the respective adopted documents.

23. *Share* the view that the SEECP activities both at the European and international level need to be more visible and consider that dialogue should be continued on the enhancement of the SEECP, while transforming the Process into a genuine policy maker.

We welcome the intention of the incoming Greek Chairmanship-in-Office to give impetus to the cooperation process by enhancing its political visibility and present proposals for reinforcing its institutional capacity. We also took note of the willingness of the next Greek Chairmanship-in-Office to present concrete proposals on the issue of a SEECP Secretariat.

24. *Encourage* the creation of the SEECP official website, as a step forward to raise the public awareness on SEECP activities.

25. *We reiterate* our strong and unequivocal condemnation of the acts of terrorism in Iraq, resulting in loss of innocent civilians and hostage takings of people from our countries and we *reaffirm* our strong support to international efforts aimed at defeating this global threat.

26. *Express* their solidarity with the Bulgarian nurses sentenced in Libya and call for additional diplomatic efforts to obtain their earliest possible release, underlining at the same time their sympathy with infected Libyan children and their families.

Express their sadness for the losses caused by the floods affecting Romania and Serbia and Montenegro, and support the actions meant to minimize the damages and suffering of the population living around the border.

27. *Express* their gratitude to President Traian Basescu, the Government and the people of Romania, for the warm hospitality extended to them during the Eighth Summit Meeting of the South-East European Cooperation Process in Bucharest.

28. *We decide* that during the period 2006-2007 the Chairman-in-Office will be H.E. Mrs. Kolinda Grabar-Kitarovic, Minister of Foreign Affairs and European Integration.

29. *Welcome* the incoming Greek Chairmanship-in-Office, and decide that the next meeting of the Heads of State and Government of the SEECP countries will be held in Thessaloniki in 2006.

Bucharest, 11 May 2005

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Letter dated 25 May 2005 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Criminal Tribunal for the former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1543 (2004).

I would be grateful if you could transmit these assessments to the members of the Security Council.

(*Signed*) Theodor **Meron**
President

05-36207 (E) 030605

Annex I

Assessments and report of Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004)

1. The present report is submitted pursuant to Security Council resolution 1534 (2004) adopted on 26 March 2004 in which the Council, in paragraph 6 of the resolution requested the International Criminal Tribunal for the former Yugoslavia (ICTY) "to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the completion strategy of the Tribunal, explaining what measures had been taken to implement the completion strategy and what measures remained to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions".[1]

I. Introduction

2. The Tribunal's three Trial Chambers continue to operate at full capacity, handling six cases simultaneously. Since the last report submitted to the Council, Trial Chambers have rendered Judgements in two cases, involving three accused (Blagojević and Jokić; Strugar). The six cases currently being tried, involving nine accused, are: Milošević; Orić; Hadžihasanović and Kubura; Halilović; Limaj, Musliu and Bala; and Krajišnik. As the chart in Enclosure II to this report indicates, judgements are expected in four of those cases by the end of November 2005, while Judgements in the other two cases are anticipated by the end of 2006.

3. On the Appeals Chamber level, twenty-one appeals (both ICTY and ICTR) have been completed since the last report, six appeals from Judgement and fifteen interlocutory appeals.[2]

4. With the arrival in the past few months period of an unprecedented number of indictees or fugitives to The Hague, the number of persons currently awaiting trial is 51, as compared to 34 persons awaiting trial in the last report.[3] This amounts to a 50% increase in the number of persons awaiting trial. Of those 51, seventeen have been provisionally released. The impact of these new arrivals on the implementation of the completion strategy is discussed below.

II. Measures taken to implement the completion strategy

A. Internal measures to speed-up proceedings

5. The Judges have continued to refine and constantly keep under review the Rules of Procedure and Evidence (hereinafter "the Rules") with a view to speeding up trials and appeals. To give one recent example, one of the potentially significant amendments changed the rule dealing with "Judgement of Acquittal" (rule 98 bis). That rule provides that at the close of the Prosecutor's case, the Trial Chamber shall, after hearing submissions of the parties, enter a judgement of acquittal on any count if there is no evidence capable of supporting a conviction. In the past, this procedure had resulted in written submissions, hearings and a written decision, sometimes involving two or three months until the Chamber was in a position to render its decision. The rule has now been changed to require that both parties' submissions and the Trial Chamber's decision be delivered orally. It is expected that this rule change will result in a considerable saving of time.

6. In addition, the President has established two Working Groups of Judges to examine procedures and practices with a view to improving working methods to expedite trials and appeals, while maintaining the Tribunal's established regard for due process. The Working Group on Speeding Up Trials is chaired by Judge Bonomy, with ad litem Judges Hanoteau and Swart as members; the Working Group on Speeding Up Appeals is chaired by Judge Mumba, with Vice-President Pocar and Judge Schomburg as members. It is anticipated that these Working Groups will be in a position to report on the results of their work at the July session of the plenary meeting of Judges.

7. Judge Bonomy's Working Group on Speeding Up Trials is exploring ways to increase the available space for courtroom activities as well as ways to expedite pre-trial and trial procedures within the framework of the existing rules; indeed a pilot project is underway implementing potential time-saving measures. Once recommendations or suggestions have been agreed upon, the Office of the Prosecutor and the Association of Defence Counsel will be consulted with a view to coming to a common understanding on how such measures will be incorporated into pre-trial and trial proceedings. Whether the measures will require more formal adoption is a matter to be determined.

8. Judge Mumba's Working Group on Speeding Up Appeals will reflect on admissibility and time limits for additional evidence, as well as translation of judgements and decisions for appellants insofar as it affects timely disposal of appeals.

9. In pursuance of the completion strategy, the Prosecutor submitted her last indictments by the end of December 2004. Following the examination of those indictments by the Bureau for compliance with the requirement of seniority pursuant to rule 28 (A) of the rules, those indictments were referred to Judges for review. All those indictments have been reviewed and confirmed. No new indictments (other than possibly for contempt) will be filed by the Prosecutor and hence there will be no new indictments confirmed.

10. For her part, the Prosecutor is reviewing the indictments of persons awaiting trial with a view to filing motions for joinder of cases. One motion for joinder of a three-accused case with another case of three accused has already been filed and the decision of the Trial Chamber on that motion is expected soon.

B. Ad Litem Judges

11. The ability to appoint ad litem Judges in a timely and efficient manner is a critical feature for maintaining the current pace of work at the Tribunal. The adoption of amendments to the Statute by the Council in its resolution 1597 (2005) concerning the election and appointment of ad litem Judges--which removed the prohibition on the re-election of ad litem Judges-- is to be welcomed. At the time of the writing of this report, it is understood that preparations are underway for the election of a new roster of ad litem Judges, so that appointments can be made in a timely manner with a view to ensuring that once one case ends, another can begin without loss of time. I am also grateful to the Council for having adopted resolution 1581 (2005) by which the nine ad litem Judges currently assigned to cases which will continue beyond the expiry of their term, will nevertheless be able to finish those cases.

C. Referral of cases involving intermediate and lower rank accused to competent national jurisdictions

12. As indicated in previous reports, one critical element to achievement of the completion strategy will be the ability of the Tribunal to refer cases to competent national jurisdictions for trial. By transferring lower- and intermediate-level accused, the Tribunal will enhance the essential involvement of national Governments in bringing reconciliation, justice and the rule of law to the region.

13. The Tribunal has continued its training of national judges, prosecutors and court personnel from the region. Such training is crucial to building up the capacity of domestic jurisdictions to prosecute and try fairly and without bias, persons accused of having committed war crimes, in full conformity with international standards of due process. The purpose of such training includes the strengthening of channels of communication between the relevant domestic court authorities and the ICTY and facilitating the transfer of knowledge, experience and relevant material, accumulated through the practice of the ICTY to domestic courts. Such training invariably involves comprehensive briefings and discussions with Judges and relevant staff of the Tribunal. At the end of February 2005, the Tribunal hosted a five-day working visit of judges and prosecutors from Croatia assigned to handle war crimes cases. In March 2005, the Tribunal was involved in a five-day training programme held in Sarajevo for judges, prosecutors and registry staff of the Sarajevo War Crimes Chamber in Bosnia and Herzegovina (BiH). In April 2005, the Tribunal hosted a five-day working visit of Judges of the Supreme Court of Serbia.

14. On 9 March 2005, a momentous achievement was celebrated: the War Crimes Chamber of the State Court of BiH was formally inaugurated. The President and Prosecutor of the Tribunal attended the ceremony and addressed the gathering. The international community, donor Governments, the Government and people of BiH and the High Representative should be congratulated on having accomplished this task in such a short time. The War Crimes Chamber has already begun its work with regard to local war crimes prosecutions and one case from the Tribunal has already been referred to it pursuant to the rule 11 bis procedure, described below. The establishment of the Sarajevo War Crimes Chamber is a major accomplishment in the search for peace, reconciliation and justice in the region and is a milestone in the development of the rule of law in BiH.

15. Under rule 11 bis of the Tribunal's Rules as recently amended, a Referral Bench may refer a confirmed indictment for prosecution, either proprio moto or upon motion by the Prosecutor, to the authorities of a State in which the crime was committed, in which the accused was arrested, or which has jurisdiction and is willing and adequately prepared to accept the case. In determining whether to refer an indictment, the Referral Bench must consider the gravity of the crimes charged and the level of responsibility of the accused. The Referral Bench may not refer a case to a jurisdiction in which the accused might not be accorded a fair trial, or in which the death penalty is a possible consequence of the trial. It should be noted that the decision of the Referral Bench on any such motion may be appealed by the accused or the Prosecutor as of right.

16. As of 25 May 2005, the Prosecutor has filed ten rule 11 bis motions with regard to nine cases involving eighteen accused (See Enclosure V to the present report). Hearings have been held in cases and the Referral Bench has heard statements not only from the parties, but also interested Governments and persons granted leave to appear as amici curiae. On 17 May 2005, the Referral Bench issued its first decision on a Prosecutor's motion to refer a case to the domestic authorities of a State. In that decision, the Referral Bench satisfied itself that in the case of the Prosecutor v. Stanković, neither the level of responsibility of the accused nor the gravity of the crimes alleged in the indictment were factors that made a referral to the national authorities of Bosnia and Herzegovina inappropriate. The Referral Bench decided to grant the motion for referral, having: considered the question of the compatibility of the laws of Bosnia and Herzegovina with the Tribunal's Statute; reviewed the laws applicable to the events in 1992 in Bosnia and Herzegovina; reviewed the prospects for the accused to receive a fair trial before the War Crimes Chamber of the State Court of Bosnia and Herzegovina; satisfied itself that adequate measures were in place for the protection of witnesses; and satisfied itself that the death penalty would not be imposed.

D. Co-operation of States in the region with the Tribunal

17. As to the status of co-operation with Croatia, the situation remains the same as last reported: good except for the arrest and transfer of Ante Gotovina, the remaining Croatian fugitive from justice.[4] It is of major concern that this last remaining "stumbling block" to achieving full cooperation with the Tribunal has not yet been settled. It is imperative that Gotovina appear before the Tribunal. I am very concerned at the continuing failure of the Government of Croatia to ensure the arrival of Ante Gotovina at the Tribunal.

18. With regard to Bosnia and Herzegovina, co-operation remains very good with the Federation and at the State level, with two fugitives arriving at The Hague since the last report. But co-operation has only slightly improved with regard to Republika Srpska (RS). While some of the indictees or fugitives who have arrived in The Hague have done so with the assistance of RS authorities, the issue of missing and possible hidden documentation is still not resolved. And of course the basic core obligation to arrest and transfer to The Hague Radovan Karadžić remains unfulfilled with no indication of any serious attempts by RS authorities to locate or arrest him.

19. Co-operation with Serbia and Montenegro has improved markedly in the last six months in terms of arrivals of indictees and fugitives. Since the last report, fourteen fugitives have arrived at The Hague, whether under the rubrique of "voluntary surrender" or otherwise, from Serbia and Montenegro or with the assistance of its authorities. Among those who have arrived are very senior members of the former Yugoslav or FRY military staff. The Tribunal welcomes this development and encourages the authorities of

Serbia and Montenegro and Republika Srpska to re-double their efforts to ensure the arrival of the remaining nine fugitives, most thought to be in Serbia and Montenegro or RS. Serbian authorities have been reminded that if the "voluntary surrender" of an accused war criminal is not successful, their international obligation is to arrest and transfer the accused without delay. The largest impediment towards full cooperation with the Tribunal is the continuing failure to apprehend and render to The Hague Ratko Mladić.

20. On 15 March 2005, I travelled to Belgrade for a meeting and a discussion in depth with Mr. Vojislav Kostunica, President of the Republic of Serbia. I also met with Mr. Boris Tadić, President of Serbia and Montenegro, as well as Mr. Zoran Stojković, Minister of Justice of Serbia. At these meetings, I reviewed the level of cooperation with the Tribunal and the need for full compliance with orders issued pursuant to the Statute of the Tribunal. The increase in the number of indictees and fugitives arriving at The Hague was welcomed but the imperative need for the apprehension of Ratko Mladić and his transfer to The Hague was stressed.

21. Co-operation was noted in the last six months with the authorities of UNMIK in Kosovo who assisted in the transfer of 3 fugitives to The Hague and with the authorities of the former Yugoslav Republic of Macedonia who assisted in the transfer of 2 fugitives.

22. Since the submission of the last report, the number of remaining fugitives has been cut in half: only ten fugitives remain as of 25 May 2005. This represents a formidable advancement in international justice: the accused war criminals now in custody in The Hague are no longer in hiding, let alone "walking the streets". They will be tried in a court of law for having allegedly committed terrible crimes against their fellow human beings. Impunity has effectively been challenged and the Tribunal is closer than ever to accomplishing the major tasks the Council mandated for it: prosecuting those accused of committing war crimes in the territory of the former Yugoslavia. While the arrival of indictees and fugitives may have a consequential effect on the target dates of the completion strategy (see below), for the cause of international justice and denying impunity, the arrival of this number of indictees and fugitives can only be applauded.

23. Of the remaining ten fugitives, Ratko Mladić, Radovan Karadžić and Ante Gotovina are the most notorious. I cannot emphasize enough that these three fugitives cannot wait the Tribunal out. As I told the ceremony inaugurating the Sarajevo War Crimes Chamber, the Tribunal will not have fulfilled its historic mission and will not close its doors, until Mladić, Karadžić and Gotovina are in the custody of the Tribunal in The Hague.

III. Updated prognosis regarding implementation of the completion strategy

1. Recapitulation of the November 2004 estimate

24. In November 2004[5], I reported to the Security Council that the Tribunal still estimated that, with a reasonable rate of granting pending and anticipated rule 11 bis motions, it could complete the trials of all accused then in custody, including those on provisional release, as well as the trial of Gotovina (provided he is transferred to The Hague before 2006 and tried together with Čermak and Markač) before the close of 2008. But that estimate warned that any further growth in the trial docket (including the arrest and transfer of Karadžić and Mladić, or the arrest of any of the four Serbian generals indicted in October 2003) would make achievement of the 2008 target date entirely dependent on the ability to dispose of some pending and future cases other than by a full trial, e.g., by entry of guilty pleas. I also pointed out that any additional indictments filed by the Prosecutor after the November report would make adherence to the completion strategy target dates more difficult.

25. Furthermore, the November 2004 predictions rested on certain important assumptions: first, they presumed that trials pending in November 2005 would continue uninterrupted even though the mandate of the Tribunal's permanent Judges expired that month; and second, it was impossible to predict delays related to the health of the accused or counsel or other obstacles to the orderly conduct of trial. The November 2004 report also stated that "if new indictees or current fugitives arrive at The Hague and require new and

separate trials, it will become likely that it will take at least until the end of 2009 to complete the trials of all accused within the custody of the Tribunal".[6]

2. Factors bearing on the implementation of the completion factor

26. Some of the factors mentioned in the November 2004 estimate are no longer of concern, such as the impact of the November 2005 election of permanent Judges. Most however remain valid as of the writing of this report, some more susceptible of prediction than others:

a) Number of new indictments. With the conclusion of investigations by the end of 2004, the Prosecutor submitted seven new or amended indictments involving thirteen accused which were confirmed.[7] These newly indicted accused have had to be included in the case load of the Tribunal which in turn has added to the time required to complete trial activities.

b) Number of rule 11 bis motions for transfer granted. The Prosecutor as of the date of this report has filed ten such motions with regard to nine cases; to date, the Referral Bench has ruled, as indicated above, on one such case. As of the writing of this report, it is not known if either party will appeal that decision. It is not appropriate to "second guess" whether the Referral Bench will or will not grant any particular pending or future rule 11 bis motion. That is a matter solely for the Referral Bench of three Judges to determine. Moreover, some decisions may be appealed.

c) Number of guilty pleas. Since November 2004, no guilty pleas have been entered.

d) Arrival of remaining indictees and fugitives. It is important to recall that only ten indictees or fugitives remain at large (See Enclosure III.2). Of those ten accused, six are on indictments with co-accused already in custody ; joinders will not be required. Arrival of co-accused would invariably involve an extension of time to complete the case, but in no event would such an extension be as long as if a new, separate trial were involved. However the arrival of two of the indictees not yet in custody, Hadžić and Župljanin, would require new, separate trials. Moreover, the arrival of Karadžić and/or Mladić would require a separate trial; theirs is a joint indictment so there would be a joint trial provided they arrive more or less contemporaneously.

e) Timing of the arrivals of remaining indictees and fugitives. Obviously this cannot be predicted with any certainty, but the time required to try the accused can be roughly estimated and on that basis, it is possible to envisage various scenarios on how the timing of the arrivals would impact on trial scheduling and thus on meeting the target dates.

f) Disposition of joinder motions. As indicated earlier, the Prosecutor has already filed one motion thus far, to join two cases with a view to avoiding several trials based on the same fact pattern. She may well file other such motions. While a trial of more than six accused would be unprecedented thus far in the history of the Tribunal, as long as the physical facilities and logistical issues are worked out [8]and the trial can be managed efficiently given the particular circumstances and complexities of the case, I welcome any such major time saving tactic which is consistent with due process and the rights of the accused.[9]

3. Current estimate

27. It is self-evident from the above that giving an estimate at this stage of when the Tribunal will finish its work is an exercise in guesswork; it is more art than science. One can do so on the basis of certain assumptions, but because those assumptions are subject to unpredictable factors, the estimates are of limited value.

28. What is clear at this juncture is what was alluded to in my last report: it is not feasible to envisage an end of all trial activity at the Tribunal by the end of 2008. This is due to the large number of indictees and fugitives, including at the senior level, who have arrived since the last report, as well as by the filing and confirmation of seven new or amended indictments involving thirteen accused since the last report. Moreover, no guilty pleas have been entertained since the last report nor have all the rule 11 bis motions for

transfer of cases to competent national jurisdiction been decided upon by the Referral Bench. I will present the best predictions I can offer in my oral report to the Council scheduled for 13 June 2005. I can already predict, however, that trials will have to run into 2009.

29. Given the uncertain and tentative nature of any estimated final date at this stage, in my view what can most usefully be done is to re-double our efforts to expedite trials and procedures and as well as to continue our efforts at training at the national level in the region. Internally, as I have mentioned before, two Working Groups of Judges are examining the speeding up of trials and appeals and are expected to report on their work in July 2005.

30. The Tribunal has started exploring the possibility of adding a fourth courtroom so that an additional seventh trial may be added to the existing six trials a day. It may be noted that a fourth courtroom has been added to the ICTR. A fourth courtroom would bring strong advantages even if a seventh case is not started, by permitting two trials to sit longer hours per day, rather than the five-hour-a-day limit now required to accommodate courtroom sharing. A fourth courtroom could also accommodate status conferences, initial appearances and Appeals Chamber hearings. We would attempt to request interested Governments to donate funds for this purpose rather than burden the UN budget. A cost analysis would have to be undertaken, and would no doubt reveal that additional short-term costs would be off-set substantially by the long-term savings achieved in shortening of the life of the Tribunal, even if by only six months. Adding a seventh trial would necessarily involve additional staff costs and entail allowing the appointment of three additional ad litem Judges, which would have to be covered by the UN budget. At the end of the day, I firmly believe that if the Council and major contributors wish the Tribunal to complete its work more quickly, additional expenses will have to be incurred in the near future to increase current capacity, in order to avoid the much higher expenses in the long-term of continuing the Tribunal with its present configuration.

31. If the Tribunal decides to pursue this possibility, it will of course report on this matter to the Council as its parent organ and seek the Council's guidance and leadership on the matter. This will be particularly important if any proposals on this matter reach the General Assembly and the budgetary bodies of the Organization. Frankly, what must be made clear to all the bodies of the Organization is that the Tribunal was given a mandate by the Council and it is attempting to fulfill that mandate as best it can within the resources made available to it, but it cannot "cut corners" at the expense of the full panoply of due process and human rights norms, in order to move faster. The Tribunal and all its components-Chambers, Registry and the Office of the Prosecutor continue to search for ways to expedite trials and proceedings without prejudice to fundamental human rights and due process.

32. In the not-too-distant future, the Tribunal will also address the matter of speeding up appeals once it can be foreseen when trial activities will near completion. In preparation for that stage, the Tribunal may examine such options as proposing that the Appeals Chamber operate through two, or even three, benches of five Judges each, drawing on Judges who have served at the trial level, to double or triple the capacity of the Tribunal to dispose of the appeals backlog and to thus more quickly arrive at the completion of the Tribunal's mandate.

IV. Conclusion

33. This is without doubt the most active and productive period in the life of the Tribunal thus far, a period full of challenges, stresses and strains. While the completion date for the Tribunal's work cannot be predicted in any precise manner at this stage, it is expected that within the next six months more clarity will be achieved so that future estimates can be made on the basis of facts and reliable assumptions. What is clear at the time of writing this report is that trial activities will have to continue into 2009; I will revert to this matter and provide more information during my oral presentation to the Council on 13 June. The Tribunal will leave no stone unturned in its search for greater efficiency, economy and expeditious procedures, as long as international standards of due process and justice are not sacrificed.

34. As a result of the principled and unprecedented decision of the Security Council in 1993, the Tribunal was the first serious attempt by the international community since Nurnberg to prosecute and try persons accused of having committed war crimes. Its procedures and jurisprudence have provided a model and inspiration for other international criminal courts and tribunals. The Tribunal must continue its work until completion and its lesson must not be lost: international justice will be served and impunity denied.

Notes

[1] The present report should be read in conjunction with the previous two reports submitted pursuant to resolution 1534 (2004): S/2004/420 of 24 May 2004 and S/2004/897 of 23 November 2004.

[2] See Enclosures VI and VII to this report.

[3] See Enclosure IV to this report.

[4] The other remaining Croatian indictee arrived in The Hague in mid-November 2004.

[5] S/2004/897, paras. 18-20.

[6] Ibid, para. 20.

[7] Twelve of the 13 accused are in custody.

[8] The Registrar has already initiated examination of the extent to which the physical set-up of certain courtrooms could be changed to accommodate "mega trials" and has concluded that this can be done within existing resources.

[9] Indeed, one case not yet in trial already counts six defendants. See Enclosure IV, case 14.

Annex II

Assessment of Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004)

INTRODUCTION

1. As a follow-up to the last assessment of 23 November 2004, the present report provides an updated assessment of the progress made towards implementing the completion strategy of the Tribunal. It outlines the measures already taken and indicates the steps that remain to be taken.

2. The Tribunal's completion strategy has been focused on three principal dates, the first concerning the conclusion of all new investigations by 31 December 2004. This first major milestone, which entirely relies on the activities and efforts of the Prosecutor and her Office, was reached as planned. By the end of last year, the investigation of all remaining targets had been completed and the last new indictments were presented for confirmation and subsequently all of them were confirmed by the Chambers.

3. The Office of the Prosecutor will do its utmost within the framework of its mandate to meet the remaining target dates, namely the completion of trials by the end of 2008, and of all appeals by the end of 2010.

4. The completion strategy is twofold. First, the International Tribunal must try those bearing the gravest responsibility for the crimes, including the high-profile fugitives, and thus complete its activities in a swift and efficient, yet fair and impartial, manner. Second, the domestic jurisdictions of the territories of the former Yugoslavia must be reformed and equipped to take over the remaining cases. Over the last few months, the Prosecutor's Office has taken initiatives in requesting the transfer of certain cases to the domestic jurisdictions of Bosnia-Herzegovina, Croatia and Serbia and Montenegro. Ten motions involving 18 accused have been filed, requesting the deferral of indicted cases pursuant to Rule 11 bis of the Rules of Procedure and Evidence.

5. In the reporting period, 20 accused were surrendered to the custody of the Tribunal, including 10 whom had been at large for one year or more. Despite all the progress made in this regard, it is important to stress that the completion strategy of the Tribunal is still affected heavily by factors which are beyond its control, such as the lack of co-operation of Bosnia and Herzegovina, Croatia and Serbia and Montenegro in arresting indicted persons. Ten of them are still at large, including those specifically mentioned in various Security Council Resolutions, Radovan Karadzic, Ratko Mladic, as well as Ante Gotovina.

PROGRESS MADE TOWARDS THE IMPLEMENTATION OF THE COMPLETION STRATEGY

Last indictments

6. The Prosecutor submitted to the Chambers before the end of 2004 seven new indictments with 13 accused for confirmation. All of these were subsequently confirmed. On 10 February, the indictment against Milan Gvero, former Assistant Commander for Morale, Legal, and Religious Affairs of the Main Staff of the Bosnian Serb Army (VRS), Radivoje Miletic, former Chief of Operations and Training and Deputy Chief of Staff of the VRS, and Zdravko Tolimir, former Assistant Commander for Intelligence and Security of the VRS was confirmed. On 16 February, the indictment against Rasim Delic, former Commander of the Main Staff of the Army of Bosnia and Herzegovina, was confirmed. On 24 February, the indictment against Momcilo Perisic, former Chief of the General Staff of the Yugoslav Army was confirmed. On 25 February, the indictment against Mico Stanisic, former Minister of Internal Affairs of the Bosnian Serb government in Bosnia and Herzegovina was confirmed. On 4 March, the indictment against Ramush Haradinaj, a former senior commander in the Kosovo Liberation Army (KLA), Idriz Balaj, a former commander of a special unit

within the KLA, and Lahi Brahimaj, a former deputy commander in the KLA, was confirmed. On 9 March, the indictment against Ljube Boskovski, a former Minister of Interior of the former Yugoslav Republic of Macedonia and Johan Tarculovski, a former senior police official, was confirmed. Furthermore, on 24 March, an amended indictment was confirmed, charging Milorad Trbic, a former deputy commander in the VRS, in the same indictment as Vinko Pandurevic. Out of the 12 persons newly accused by the Tribunal, 11 were surrendered immediately. The only exception is Zdravko Tolimir, who remains at large in Serbia.

7. One indictment was withdrawn, against Goran Borovnica, because the accused is dead.

8. In addition, on 26 April, the Chambers confirmed two indictments for contempt of Court involving three journalists from Croatia and a former high Croatian official. Further charges for contempt of court may not be excluded in the future. The recent indictments in this context involved the intimidation of witnesses or the disclosure of closed session information or documents.

Transfer of cases

9. The Office of the Prosecutor has been particularly active in preparing for the possible transfer of some cases indicted in the past by the International Tribunal for trial by domestic jurisdictions. The Prosecutor's Office has contributed its expertise to training seminars for prosecutors and judges in republics of the former Yugoslavia to enhance the capability of national jurisdictions to try war crimes in fair and credible trials. The OTP was also deeply involved in efforts aimed at improving the judicial co-operation between the relevant domestic authorities. A number of bilateral agreements were signed between the prosecutors of Croatia, Bosnia and Herzegovina and Serbia and Montenegro. More progress is needed on further agreements regarding the transfer of proceedings between the countries in the region aimed at ensuring that the countries' legal impediments to the extradition of nationals does not lead to impunity.

10. As a result of these efforts, capacities have been created throughout the region to take over mid- and lower-level cases that, in accordance with Security Council Resolutions 1503 and 1534, cannot be tried in The Hague. In Bosnia and Herzegovina, the War Crimes Chamber within the State Court is now operational, and a separate War Crimes Department was created within the Office of the State Prosecutor. In Croatia, four courts are specially designated to deal with war crimes cases, and a fruitful co-operation has developed between the OTP and the Croatian State Prosecutor. In Serbia as well, the OTP has made positive experience in its co-operation with the special prosecutor for war crimes. An OTP investigation which was well advanced was forwarded to him, and he has completed the investigation, issued an indictment and secured the arrest of almost all of the accused. Furthermore, a special chamber for war crimes within the Belgrade District Court is now hearing another war crimes case, and there are no major problems to be noticed in the way the proceedings are being conducted thus far.

11. The Organisation for Security and Co-operation in Europe remains active in the region in various areas relevant to war crimes issues. Of particular interest here is that the OSCE, upon request of the Prosecutor, has decided on 19 May 2005 to co-operate with the OTP in monitoring cases transferred to the countries of the former Yugoslavia.

12. In view of these positive developments, the OTP has continued its policy of submitting motions to the Chambers for the referral of cases involving mid- and low-level perpetrators to local jurisdictions. In the reporting period, four additional motions were filed by the OTP for referral in accordance with Rule 11bis. Therefore, the OTP has filed so far ten motions involving 18 accused. The OTP has proposed that seven of these ten cases, involving 12 accused, should be sent to Bosnia and Herzegovina, 1 involving 1 accused to Serbia and Montenegro, and 1 involving 2 accused to Croatia. It is the OTP's view that the remaining case, which involves three accused, could be transferred either to Croatia or to Serbia.

13. On 17 May 2005, the Chambers took its first decision on an 11bis referral, whereby they granted the prosecution motion to transfer the Stankovic case to Bosnia and Herzegovina.

14. The OTP is actively considering the transfer of one other case involving one accused to Bosnia and Herzegovina. With this last case, the OTP will have proposed for transfer to domestic jurisdictions all pending cases in front of the

ICTY involving mid- and lower-level perpetrators. The remaining cases all concern the most senior leaders in governments, armies or paramilitary organisations.

15. In addition to these indicted cases to be transferred in accordance with Rule 11 bis, the OTP has also started to forward non-indicted cases, i.e. investigative material, to local prosecutors for their review and for further investigations. It is planned to provide the State Prosecutor of Bosnia and Herzegovina with more than a dozen such non-indicted cases involving about 40 suspects. Co-operation has been launched with the relevant authorities in Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and Serbia and Montenegro for this purpose.

Measures taken to improve judicial economy

16. The OTP has been actively working on joining cases involving the same crime base. This will make trials quicker, since the crime base will not need to be proven in several trials, and therefore the same witnesses will not need to come to The Hague and testify a second time. It is therefore expected that such measures can free up a significant amount of courtroom space. One motion involving six accused was filed on 1st April 2005, and a second motion will be filed soon with a view to join the cases of nine persons accused for the Srebrenica genocide. A few additional joinders are currently being considered by the OTP.

17. Furthermore, the OTP has undertaken a review of all charges in the pending cases. The objective of this review is to revise the number of counts whenever possible, thereby paving the way for shorter and more efficient trials.

Measures taken to improve the management and efficiency of the Office of the Prosecutor

18. As a consequence of the reduction of the investigative activities of the Office of the Prosecutor following the achievement of the first phase of the completion strategy, the size of the investigation division has been reduced by 37% or 79 posts. These posts were abolished. Furthermore, in the context of the 2006-2007 biennial budget, a redeployment of 15 posts from the investigation division to the prosecution division and the appeals section has been proposed. This move is aimed at coping with the intensification of activities to be expected in these two areas.

19. The January decision of the Secretariat to lift the freeze imposed on any new recruitment which was severely hampering the OTP's work, has allowed the OTP to fill longstanding vacancies in key positions and to perform its work more efficiently and speedily. Recruitment procedures have been completed in the reporting period for a number of junior and senior staff, including three senior trial attorneys.

20. It should be emphasised once more that the end of investigations does not mean the end of all investigative activities. Indeed, the term "Investigation" is defined in Rule 2 of the Tribunal's Rules of Procedure and Evidence as meaning:

> "*All activities undertaken by the Prosecutor under the Statute and the Rules for collection of information and evidence, whether before or after an indictment is confirmed.*" (emphasis added).

It is therefore important to appreciate that skilled investigators and the other staff in the Investigation Division, such as the criminal, political, and military analysts remain essential for the prosecution process, including both in the pre-trial and in the trial phases, as well as during the appeal stage.

EXTERNAL FACTORS IMPACTING ON THE IMPLEMENTATION OF THE COMPLETION STRATEGY

21. The main factor hampering the implementation of the completion strategy has been and remains the lack of co-operation of States in the arrest and transfer of persons indicted by the Tribunal. There has been progress that led to the surrender of 20 accused in the reporting period, including ten who had been at large for well over one year, sometimes even several years. Croatia, Serbia and Montenegro and Bosnia and Herzegovina have been conducting policies aimed at securing the voluntary surrender of the accused. These policies seem to have reached their limits.

Co-operation of States

22. In the reporting period, the number of fugitives has been cut by half, from 20 to ten, while another ten new accused were also surrendered. Radovan Karadzic, Ratko Mladic as well as Ante Gotovina remain among the ten fugitives, even though the Security Council has called for their apprehension in several Resolutions taken under Chapter VII of the Charter. Clearly this is one of the most important factors affecting the Tribunal's ability to meet the completion strategy target date.

23. In addition to Karadzic, Mladic and Gotovina, the list of fugitives includes Vlastimir Djordjevic, indicted for crimes committed in Kosovo, Goran Hadzic, former President of the so-called Republika Srpska Krajina, Milan and Sredoje Lukic, indicted for crimes committed in Bosnia and Herzegovina, Zdravko Tolimir, indicted for the Srebrenica genocide, Dragan Zelenovic and Stojan Zupljanin, both indicted for crimes committed in Bosnia and Herzegovina. It is believed that most of these fugitives remain in the region, mainly in Serbia, while two of them, Djordjevic and Zelenovic, are in Russia.

24. The Serbian Government has been successful in the reporting period in its policy to encourage the voluntary surrender of accused. 14 accused were brought to the Tribunal thanks to the Serbian Government's efforts, alone or in conjunction with the Minister of Interior of Republika Srpska within Bosnia and Herzegovina. However, the policy of voluntary surrenders carried out by Belgrade and Banja Luka with some success in the first half of this year seems to have reached its limits. Since 25 April, no more surrenders took place, even though Karadzic, Mladic, Hadzic, Milan and Sredoje Lukic, Tolimir and Zupljanin remain within reach of the Serbian and Bosnian authorities. Still, these authorities are reluctant to use coercive methods to arrest and transfer these fugitives.

25. There has been progress in the co-operation provided by Serbia and Montenegro on access to witnesses. Requests are now dealt with in a more efficient manner. However, it is unfortunate that restrictions are still hampering the OTP's full and quick access to witnesses with a military background and to documents in possession of military authorities.

26. In Bosnia and Herzegovina, one of the remaining problems, aside from the fugitives, is the missing war times archives of Republika Srpska. According to various accounts, they were moved to Serbia or hidden by interested individuals. The OTP, through its participation to the Monitoring Group on Co-operation with the ICTY chaired by the Office of the High Representative, is actively involved in the process aimed at resolving the remaining issues.

27. In Croatia, the Prosecutor's Office continues to benefit from an unrestricted access to documents and witnesses. Unfortunately, not much progress can be reported on the efforts made by the Croatian authorities in the reporting period in order to locate, arrest and transfer Ante Gotovina. These efforts were neither focused, nor convincing. Doubts can be raised on the genuine willingness of the Croatian authorities to arrest the fugitive. A voluntary surrender would have been a preferred option. Furthermore, several incidents occurred, where sensitive information was manipulated so as to obstruct the investigation against Gotovina and his protective networks. There were also media campaigns, sometimes based on confidential documents leaked to the press, or on a twisted interpretation of court documents, that tried to discredit the ICTY or partners of the Tribunal in Zagreb. This indicates that the networks supporting Gotovina within the institutions remain well and active, and no decisive move has been made against them.

28. The Croatian Government has now made new promises, and an action plan has been designed. If carried out with the necessary resolve, this action plan has the potential to hit hard at Gotovina's support networks and provide detailed intelligence about the fugitive's whereabouts. This may be the beginning of a serious operation. However, a definite assessment cannot take place immediately. It will take three to four months to evaluate whether, this time, finally, Croatia is doing everything it can to locate and arrest Gotovina. If the Croatian authorities show the necessary determination, then either Gotovina should be brought to The Hague or the Croatian authorities should provide all detailed information that can lead to his arrest. For the time being, however, co-operation cannot be described as full.

CONCLUSION

29. As demonstrated by the present report, the Office of the Prosecutor is doing the maximum to keep up as much as possible with the timeframe of the completion strategy. The first deadline of this strategy was met with all the remaining investigations completed by the end of last year. Additionally, the Office of the Prosecutor continues to work closely with the other organs of the Tribunal to meet the objectives set in Resolutions 1503 and 1534.

30. The Office of the Prosecutor has initiated the transfer of mid- and low-level perpetrators to domestic courts, it is actively considering the joining of cases, and it is reviewing the charges in all cases, so as to increase the chances to meet the next deadline set in the completion strategy.

31. The Tribunal, however, does not operate in a vacuum and the successful implementation of the completion strategy will depend on the willingness of the States to fully co-operate with the ICTY. The Tribunal needs Bosnia and Herzegovina, Croatia and Serbia and Montenegro to co-operate fully with the ICTY and bring all remaining ten indictees to The Hague as soon as possible. As the tenth anniversary of the Srebrenica genocide will be commemorated in a few weeks, the failure to arrest and transfer Radovan Karadzic and Ratko Mladic remains a disgrace both for the international community and for Bosnia and Herzegovina and Serbia and Montenegro.

Enclosure I

1. Persons Convicted or Acquitted after Trial between 5 November 2004 - 25 May 2005 (3 persons, 2 cases)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Judgement**
1	Vidoje Blagojević	Commander, Bratunac Brigade, VRS	16-Aug-01	17-Jan-05 (convicted)
	Dragan Jokić	Chief Engineer, Zvornik Brigade, VRS	21-Aug-01	
2	Pavle Strugar	Commander, 2nd Operational Group, JNA	25-Oct-01	31-Jan-05 (convicted)
	Total Persons: 3			

* For period prior to 5 November 2004 Refer to Annex I, Enclosure I of the Previous Report, S/2004/897. Thus, from the inception of the Tribunal to 25 May 2005, in 20 trials, a total of 36 persons have been convicted and 3 persons acquitted. Three of the 36 convictions were later reversed on appeal.

2. Persons Pleading Guilty between 5 November 2004 - 25 May 2005 (0 persons)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Judgement**
No guilty pleas were made during the 5 November 2004 - 25 May 2005 reporting period.				

* For the period prior to 5 November 2004 Refer to Annex I, Enclosure I of the Previous Report, S/2004/897. Thus, from the inception of the Tribunal to 25 May 2005, a total of 17 persons have pleaded guilty in a total of 15 cases.

3. Persons Convicted of Contempt between 5 November 2004 - 25 May 2005 (2 persons)			
Case	**Name**	**Initial Appearance**	**Judgement**
1	Beqë Beqaj	8-Nov-04	5-May-05
2	Kosta Bulatović	6-May-05	13-May-05
	Total Persons: 2		

Legend:
JNA – Yugoslav People's Army
VRS – Bosnian Serb Army

Enclosure II

1. Trials in Progress (9 accused, 6 cases)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Comments**
1	Slobodan Milošević	President, FRY	3-Jul-01	"Kosovo, Croatia & Bosnia" Judgment expected late 2006
2	Naser Orić	Military and Police commander, BiH	15-Apr-03	"Srebrenica" Judgement expected November 2005
3	Enver Hadžihasanović	Brig. Commander, ABiH	9-Aug-01	"Central Bosnia" Judgment expected October 2005
	Amir Kubura	Commander, ABiH	9-Aug-01	
4	Sefer Halilović	Military Commander, ABiH	27-Sept-01	"Herzegovina" Judgment expected November 2005
5	Fatmir Limaj	Commander, KLA	5-Mar-03	"Kosovo" Judgment expected October 2005
	Isak Musliu	Prison Camp Commanders, KLA	20-Feb-03	
	Haradin Bala			
6	Momčilo Krajišnik	President of RS National Assembly	7-Apr-00	"Bosnia & Herzegovina" Judgment expected April 2006
	Total Persons: 9			

All figures as of 25 May 2005.

2. Contempt Cases in Progress (4 accused, 2 cases)			
Case	**Name**	**Initial Appearance**	**Comments**
1	Stjepan Šešelj	N/A	Assigned to Trial Chamber
	Domagoj Margetić		
2	Ivica Marijačić	N/A	Assigned to Trial Chamber
	Markica Rebić		
	Total Persons: 4		

All figures as of 25 May 2005.

Legend:

ABiH - Army of Bosnia and Herzegovina
BiH - Bosnia and Herzegovina
FRY – Federal Republic of Yugoslavia
KLA – Kosovo Liberation Army
RS - Republika Srpska

Enclosure III

New Arrivals and Remaining Fugitives					
1. Arrivals at the Tribunal between 5 November 2004 – 25 May 2005					
	Name	**Former Title**	**Place of crime**	**Arrival Date**	**Initial Appearance**
1	Miroslav Bralo	Member, Special Forces unit ('The Jokers'), HVO	Lašva River Valley, BiH	14-Nov-04	15-Nov-04
2	Dragomir Milošević	Chief Commander, Romanija Corps, VRS	Sarajevo	3-Dec-04	07-Dec-04
3	Savo Todović	Dep. Commander, Serb-run Kazneno-Popravni Dom prison guards	Foča, BiH	15-Jan-05	19-Jan-05
4	Vladimir Lazarević	Commander, Pristina Corps, VJ	Kosovo	3-Feb-05	07-Feb-05
5	Milan Gvero	Assistant Commander, VRS	Srebrenica and Zepa	24-Feb-05	02-Mar-05
6	Radivoje Miletić	Chief of Operations, Deputy Chief of Staff, VRS	Srebrenica and Zepa	28-Feb-05	02-Mar-05
7	Rasim Delić	Chief Main Staff, ABiH	Maline/Bikosi & Kamenica Camp BiH	28-Feb-05	03-Mar-05
8	Momčilo Perišić	Chief of General Staff, VJ	Croatia; BiH	7-Mar-05	09-Mar-05
9	Ramush Haradinaj	Commander, KLA	Kosovo	09-Mar-05	14-Mar-05
10	Idriz Balaj	Commander, KLA	Kosovo	09-Mar-05	14-Mar-05
11	Lahi Brahimaj	Deputy Commander, KLA	Kosovo	09-Mar-05	14-Mar-05
12	Mićo Stanisić	Minister, Internal Affairs, RS	BiH	11-Mar-05	17-Mar-05
13	Gojko Janković	Military Police Commander, Serb forces	Foča, BiH	14-Mar-05	18-Mar-05
14	Ljube Boskoski	Minister of Interior, FYROM	Mačedonia	24-Mar-05	01-Apr-05
15	Johan Tarculovski	Personal Security Officer for President, FYROM	Ljuboten, Macedonia	16-Mar-05	21-Mar-05
16	Drago Nikolić	Chief of Security, Drina Corps, VRS	Srebrenica	17-Mar-05	23-Mar-05
17	Vinko Pandurević	Commander, Drina Corps, VRS	Srebrenica	23-Mar-05	31-Mar-05
18	Ljubomir Borovcanin	Deputy Commander, Ministry of Interior Special Police Brigade, RS	Srebrenica	01-Apr-05	07-Apr-05
19	Sreten Lukić	Head Staff, Serbian Ministry of Internal Affairs, VJ	Kosovo	04-Apr-05	06-Apr-05

20	Milorad Trbić	Deputy Commander, Zvornik Brigade, VRS	Srebrenica	07-Apr-05	13-Apr-05
21	Vujadin Popović	Lt. Colonel, Assist. Commander, Drina Corps, VRS	Srebrenica	14-Apr-05	18-Apr-05
22	Nebojsa Pavković	General, Commander 3rd VJ Army	Kosovo	25-Apr-05	28-Apr-05
Total new arrivals in reporting period: 22					

2. Remaining Fugitives				
	Name	**Former Title**	**Place of Crime**	**Date indictment**
1	Radovan Karadžić	President, RS	BiH	25-Jul-95
2	Ratko Mladić	Commander, Main Staff, VRS	BiH	25-Jul-95
3	Ante Gotovina	Commander, Split Military District, HV	Krajina, Croatia	31-May-01
4	Milan Lukić	Member, Serb-run Special Operations Military Unit ("White Eagles")	Višegrad, BiH	21-Oct-98
5	Sredoje Lukić	Member, Serb-run Special Operations Military Unit ("White Eagles")	Višegrad, BiH	21-Oct-98
6	Dragan Zelenović	Sub Commander, Military Police, Serb forces	Foča, BiH	20-Apr-01
7	Vlastimir Đorđević	Assistant Minister, Serbian Ministry of Internal Affairs, VJ	Kosovo	25-Sep-03
8	Goran Hadžić	President, "SAO SBWS"	Croatia	28-May-04
9	Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre	Krajina, Croatia	6-Oct-04
10	Zdravko Tolomir	Assistant Commander, Intelligence and Security of the Main Staff, VRS	Srebrenica and Zepa	10-Feb-05
	Total Remaining Indictees: 10			

Legend:

ABiH - Army of Bosnia and Herzegovina
BiH - Bosnia and Herzegovina
FYROM - Former Yugoslav Republic of Macedonia
HV – Croatian Army
HVO – Croatian Defence Council
RS - Republika Srpska
"SAO SBWS" – Serbian Autonomous District, Slavonia Baranja and Western Srem
SDS – Serbian Democratic Party
VRS – Bosnian Serb Army
VJ - Armed Forces of the Federal Republic of Yugoslavia

Enclosure IV

Accused Awaiting Trial as of 25 May 2005 (51 accused, 28 cases)			
Case	**Name**	**Former Title**	**Initial Appearance**
1	Rahim Ademi*	Major-General, HVO	26-Jul-01
2	Pasko Ljubičić	Commander 4th Military Police Battalion, HVO	30-Sept-01
3	Dušan Fuštar	Shift Commander, Serb-run Omarska Detention Camp, BiH	6-Feb-02
	Momčilo Gruban*	Shift Commander, Serb-run Omarska Detention Camp, BiH	10-May-02
	Dušan Knežević	Detention Camp staff, Serb-run Omarska Detention Camp, BiH	24-May-02
	Željko Mejakić	Commander, Serb-run Omarska Detention Camp, BiH	7-Jul-03
4	Dragoljub Ojdanić*	Chief of Staff, VJ	26-Apr-02
	Nikola Šainović*	Deputy Prime Minister, FRY	3-May-02
	Milan Milutinović*	President Republic of Serbia	27-Jan-03
5	Mile Mrkšić	Colonel and Commanding Officer, JNA	16-May-02
	Mile Radić	Captain, JNA	21-May-03
	Veselin Šljivančanin	Major, JNA	16-Feb-04
6	Milan Martić	President, "RSK"	21-May-02
7	Radovan Stanković	Para Military Unit, Serb forces, Foča, BiH	21-Jul-02
	Gojko Janković	Military Police Commander, Serb forces, Foča, BiH	18-Mar-05
8	Vojislav Šešelj	President, SRS	26-Feb-03
9	Franko Simatović*	Commander, Special Operations Unit, State Security Services ("DB"), Republic of Serbia	2-Jun-03
	Jovica Stanišić*	Head, State Security Services ("DB"), Republic of Serbia	12-Jun-03
10	Ivica Rajić	Commander Croatian Defence Council, HVO	27-Jun-03
11	Mitar Rašević	Commander, Serb-run Kazneno-Popravni Dom prison guards, BiH	18-Aug-03
	Savo Todović	Deputy Commander, Serb-run Kazneno-Popravni Dom prison guards, BiH	19-Jan-05
12	Vladimir Kovačević*	Commander, JNA	3-Nov-03
13	Ivan Čermak*	Assistant Minister Defence, Commander of Military Police, Croatia	12-Mar-04
	Mladen Markač*	Special Police Commander, Croatia	
14	Jadranko Prlić*	President, "Herceg-Bosna"	6-Apr-04
	Bruno Stojić*	Head Department of Defence, "Herceg-Bosna"	
	Slobodan Praljak*	Assistant Minister Defence, "Herceg-Bosna"	
	Milivoj Petković*	Commander, HVO	
	Valentin Ćorić*	Chief of Military Police Administration, HVO	
	Berislav Pušić*	Military Police Commanding Officer, HVO	
15	Ljubiša Beara	Colonel, Chief of Security, VRS	12-Oct-04
16	Miroslav Bralo	Member Special Forces ('The Jokers'), HVO	15-Nov-04
17	Dragomir Milošević	Chief Commander, Romanija Corps, VRS	7-Dec-04

Case	Name	Former Title	Initial Appearance
18	Vladimir Lazarević	Commander, Pristina Corps, VJ, Kosovo	7-Feb-05
	Sreten Lukić	Head Staff, Serbian Ministry of Internal Affairs, VJ, Kosovo	6-Apr-05
	Nebojša Pavković	General, Commander 3rd VJ Army, Kosovo	25-Apr-05
19	Milan Gvero	Assistant Commander, VRS	2-Mar-05
	Radivoje Miletić	Chief of Operations, Deputy Chief of Staff, VRS	2-Mar-05
20	Rasim Delić*	Commander, ABiH	3-Mar-05
21	Momčilo Perišić	Chief of General Staff, VJ	9-Mar-05
22	Ramush Haradinaj	Commander, KLA	14-Mar-05
	Idriz Balaj	Commander, KLA	14-Mar-05
	Lahi Brahimaj	Deputy Commander, KLA	14-Mar-05
23	Mićo Stanišić	Minister, Internal Affairs, RS	17-Mar-05
24	Drago Nikolić	Chief of Security, Drina Corps, VRS	23-Mar-05
25	Vinko Pandurević	Commander, Zvornik Brigade, VRS	31-Mar-05
	Milorad Trbić	Deputy Commander, 3rd Battalion, Zvornik Brigade, VRS	13-Apr-05
	Johan Tarčulovski	Personal Security Officer for President, FYROM	21-Mar-05
26	Ljube Boškoski	Minister of Interior, FYROM	1-Apr-05
27	Ljubomir Borovčanin	Deputy Commander, Ministry of Interior Special Police Brigade, RS	7-Apr-05
28	Vujadin Popović	Lt. Colonel, Assist. Commander, Drina Corps, VRS	18-Apr-05
	Total Persons: 51		

*On provisional release.

Legend:

ABiH - Army of Bosnia and Herzegovina
BiH - Bosnia and Herzegovina
FYROM - Former Yugoslav Republic of Macedonia
"Herceg-Bosna" - Croatian Republic of Herceg-Bosna
HVO – Croatian Defence Council
JNA – Yugoslav People's Army
KLA – Kosovo Liberation Army
RS - Republika Srpska
"RSK" - Republic of Serbian Krajina
SRS – Serbian Radical Party
VRS – Bosnian Serb Army
VJ - Armed Forces of the Federal Republic of Yugoslavia

Enclosure V

11bis motions filed as of 25 May 2005 (18 accused, 10 cases)				
Case	**Name**	**Former Title**	**Date Motion filed**	**Status**
1	Dušan Fuštar	Shift Commander, Serb-run Omarska Detention Camp, BiH	02-Sep-04	Hearings held 3 & 4 March 2005
	Momčilo Gruban	Shift Commander, Omarska Detention Camp, BiH		
	Dušan Knežević	Detention Camp staff, Omarska, BiH		
	Željko Mejakić	Commander, Omarska Detention Camp, BiH		
2	Rahim Ademi	Major-General, HVO	02-Sep-04	Hearing held 17 February 2005
	Mirko Norac	Commander, HVO		
3	Radovan Stanković	Para Military Unit, Serb forces, Foča, BiH	21-Sep-04	Referred to BiH 17 May 2005
4	Gojko Janković	Military Police Commander, Serb forces, Foča, BiH	21-Sep-04	Hearing held 12 May 2005
	Dragan Zelenović*	Sub-commander Military Police, paramilitary leader, Foča, BiH		
5	Vladimir Kovačević	Commander, JNA	28-Oct-04	Pending
6	Savo Todović	Deputy Commander, Foča Kazneno-Popravni Dom prison staff, BiH	01-Nov-04	Hearing held 12 May 2005
7	Mitar Rašević	Commander, Foča Kazneno-Popravni Dom prison guards, BiH	04-Nov-04	Hearing held 12 May 2005
8	Dragomir Milošević	Chief Commander, Romanija Corps, VRS	31-Jan-05	Pending
9	Sredoje Lukić*	Member, Serb paramilitary unit, BiH	01-Feb-05	Pending
	Milan Lukić*	Member, Serb paramilitary unit, BiH		
10	Mile Mrkšić	Colonel and Commanding Officer, JNA	08-Feb-05	Hearing held 12 May 2005
	Mile Radić	Captain, JNA		
	Veselin Šljivančanin	Major, JNA		
	Total Persons: 18			

* fugitive

Legend:

BiH - Bosnia and Herzegovina
HVO – Croatian Defence Council
JNA – Yugoslav People's Army
VRS – Bosnian Serb Army

Enclosure VI

APPEALS COMPLETED FROM 05 NOVEMBER 2004 TO 25 MAY 2005 2/
(with date of Filing and Decision)

INTERLOCUTORY		FROM JUDGEMENT	
ICTY		**ICTY**	
1. Prli} *et al* – IT-04-74-AR73.1	13/09/04-24/11/04	1. Kordić & Čerkez IT-95-14/2-A	12/03/01-17/12-04
2. Cermak & Markac – IT-03-73-AR65.1	22/10/04-02/12/04	2. Dragan Nikoli} IT-94-2-A	16/01/04-04/02/05
3. Confidential	13/09/04-03/12/04	3. Kvo~ka et al IT-98-30-A	13/11/01-28/02/05
4. Stani{i} – IT-69-AR65.1 (leave to appeal)	29/07/04-30/09/04		
5. Stani{i} – IT-69-AR65.1	08/10/04-03/12/04	**ICTR**	
6. Simatović – IT-69-AR65.2 (leave to appeal)	08/10/04-03/12/04	1. Ntakirutimana ICTR-96-10/17	21/03/03-09/12/04
7. Simatovi} – IT-69-AR65.2	24/09/04-11/11/04	2. Semanza ICTR-97-20-A	16/06/03-20/05/05
8. Confidential	24/09/04- 09/12/04	3. Kajelijeli ICTR-98-44A	08/12/03-23/05/05
9. Confidential	02/11/04-14/03/05		
10. Had`ihasanovi} et al - IT-01-47-AR73.3	04/02/05-14/03/05	**CONTEMPT**	
11. Martic – IT-95-11-Ar73.1(reconsideration)	16/03/05- 19/04/05		
12. Mrk{i} - IT-95-13/1-AR65.2	22/03/05-25/04/05		
13. Mom~ilo Krajišnik IT-00-39-AR73.1.	27/10/04-28/01/05		
	23/03/05-12/05/05		
ICTR		**REVIEW**	
1. Nzabirinda – ICTR-2001-77-A. R72.I			
2. Muvunyi IT-00-55A-Ar73			

2/ Total number of Appeals Completed from 5 November 2004 = 21
Interlocutory Appeals = 15 Contempt = 0
Appeals from Judgement = 6 Review = 0

Enclosure VII

APPEALS CHAMBER SUMMARY 2004

APPEALS pending as of 25 May 2005[1] (with date of filing)				
INTERLOCUTORY		FROM JUDGEMENT		
ICTY		**ICTY**		
		1. Martinovic/Naletelic	IT-98-34-A	07/04/03
None		2. Staki}	IT-97-24-A	11/08/03
		3. Simi}	IT-95-9-A	17/11/03
ICTR		4. Gali}	IT-98-29-A	15/12/03
		5. Momir Nikoli}	IT-02-60/1-A	30/12/03
None		6. Joki}	IT-01-42/1-A	23/03/04
		7. Deronji}	IT-02-61-A	14/04/04
		8. Babi}	IT-03-72-A	16/07/04
		9. Brđanin Case	IT-99-36-A	30/09/04
		10. Blagojevic & Jokic	IT-02-60-	23/02/05
		11. Strugar	IT-01-42-A	02/03/05
		ICTR		
		1. Media ICTR-99-52-A		
		2. Kamuhanda ICTR-99-54-A		12/12/03
		3. Cyangugu ICTR-99-46-A		03/02/04
		4. Gacumbitsi ICTR-01-64-A		04/03/04
		5. Ndindabahizi ICTR-01-71-A		16/07/04
				13/08/04
		CONTEMPT		
		REVIEW		
		ICTR		
		1. Niyitegeka	ICTR-96-14-A	27/10/04

1/ Total number of Appeals pending = 17
Interlocutory Appeals = 0 Contempt = 0
Appeals from Judgement = 16 Review = 1

United Nations S/2005/343/Corr.1

Security Council

Distr.: General
9 June 2005

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Letter dated 25 May 2005 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

Corrigendum

Annex I, paragraph 20

Replace the first two sentences with the following

On 15 March 2005, I travelled to Belgrade for a meeting and a discussion in depth with Mr. Vojislav Kostunica, Prime Minister of the Republic of Serbia. I also met with Mr. Boris Tadić, President of Serbia, as well as Mr. Zoran Stojković, Minister of Justice of Serbia.

05-37885 (E) 090605